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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/766,410	01/22/2001	Todd A. Bland		7333

7590

09/03/2003

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EXAMINER

HUSAR, STEPHEN F

ART UNIT PAPER NUMBER

2875

DATE MAILED: 09/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/766,410

Applicant(s)

BLAND, TODD A.

Examiner

Stephen F. Husar

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 23 June 2003.
- 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 2,4,5,7 and 9-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2 and 9-12 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☒ Claim(s) 4,5,7 and 13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 February 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: Element "13" in Figs. 1 and 2 is no longer mentioned in the specification. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

2. Claims 4,5,7 and 13 are objected to because of the following informalities: Claims 4 and 13 are objected to for using a term that has no clear meaning within the context of applicant's disclosure or any dictionary which the examiner could find. That term is "incandescent" which was introduced in amended claim 4. This term could not be found in applicant's disclosure as originally filed and appears to be a typographical error or misspelling of the term, incandescent, which does appear in applicant's disclosure as originally filed. This term further raises a question of proper antecedent basis with respect to claims 5 and 7, which are also objected to. Claims 5 and 7 are objected to in that claim 5 recites an "incandescent bulb" in line 3 and it is unclear whether it is referring to the "incandescent bulb" of claim 4 or is reciting a second bulb, which is not shown in any of the drawings. Claim 7 also recites an "incandescent bulb"

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in lines 3-4 but in antecedent form, which is also confusing, as the only bulb recited previously is an "incandescent bulb". Appropriate correction is required.

***Allowable Subject Matter***

3. Claims 2 and 9-12 are allowed.
4. Claims 4,5,7, and 13 would be allowable if the above noted informalities were overcome.

***Response to Arguments***

5. Applicant's arguments with respect to the 35 USC 112 objection are not understood. First, both office actions have 35 USC 112 rejections in them with respect to the claims clearly defining the invention. Secondly, claim 10 was a newly presented claim and not an originally filed claim and as such the 25-month time period is not understood since claim 10 did not exist 25 months ago. Upon reconsideration the rejection of claims 10 and 2-9 is withdrawn because the association of the visual warning means with the rear-end of the walking shoe is positively set forth and the attachment specifics are considered a matter of scope and not omission. Applicant's response that the term, "incandescent", is correctly spelled without proof as to what the term means as in a dictionary definition or some passage in applicant's specification which defines the term is not understood and as such this issue remains outstanding for the reasons noted above.

**Conclusion**

6. This application is in condition for allowance except for the following formal matters:

The objection to the drawings and claims as set forth above.

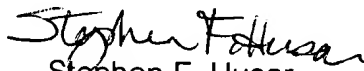
Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen F. Husar whose telephone number is 703-308-1932. The examiner can normally be reached on Monday-Friday from 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on 703-305-4939. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

  
Stephen F. Husar  
Primary Examiner  
Art Unit 2875

SFH